IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 17369 of 2004

Between:

1 P. Bapa Rao S/o Venkateswarlu,
R/o Katrapadu Village, Vatti Cherukuru Mandal, Guntur District
2 P. Venkateswarlu S/o Rama Subbaiah

R/o Katrapadu Village, Vatti Cherukuru Mandal, Guntur District

..... PETITIONERS

AND

1 The Commercial Tax Officer, Lalapet Circle, Guntur District.
2 The Deputy Commercial Tax Officer, Lalapet Circle, Guntur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus" declaring the action of the respondents in proposing to auction the petitioners lands in Sy. No. 96/1 to an extent of ac.1.06 and Sy.No.61/1 to an extent of Ac.2.25 in Katrapadu Village, Vatti Cherukuru Mandal, Guntur District, by issuing the impugned auction notice in Form No. 7-A dt 24-08-2004 for the alleged arrears of tax without serving the assessment orders prior to the recovery proceedings under the R.R. Act and also pending disposal of the stay application filed by the petitioners for the assessment years 1996-97 & 1998-99 under APGST & CST Act as illegal, arbitrary and without authority of law and contrary to the settled legal principles.

Counsel for the Petitioners: MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents: Special Standing Counsel for COMMERCIAL TAX

The Court at the stage of admission made the following :

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ORDER: (Per the Hon'ble Sri Justice M.H.S.Ansari)

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Matter was adjourned to enable the learned special standing counsel for C.T. to produce the record.

Learned special counsel submits that the assessment orders for the years 1996-1997 and 1998-1999 have been served on the petitioner/petitioner's father.

The only grievance of the petitioners in the instant writ petition was with regard to recovery of taxes without service of orders of assessment.

In view of the representation made before us by the learned special standing counsel, we are of the view that petitioners should be relegated to avail of the remedy of appeal under the Act as may be open to them with respect to the assessment orders.

For the aforesaid reasons, we are not inclined to go into the merits of the contentions raised and, accordingly, dismiss the writ petition at the admission stage with liberty to the petitioners to avail of such efficacious alternative remedy as may be open to them in law.

M.H.S.ANSARI, J.

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T.Ch.SURYA RAO, J.

Dated 07-02-2005.

skmr

To

1 The Commercial Tax Officer, Lalapet Circle, Guntur District.
2 The Deputy Commercial Tax Officer, Lalapet Circle, Guntur District

3 2 CCs to Special Standing Counsel for Commercial Taxes, High Court

Buildings, Hyderabad (OUT).

4 2 CD copies